ITEM: 24

SUBJECT: Basin Plan Amendment for a Mercury Control Program for the Sacramento-San Joaquin River Delta Estuary – *Workshop to Receive Comments*

BOARD ACTION: Informational Item. The purpose of this workshop is to discuss Basin Plan amendment alternatives for the control of methylmercury in the Delta. Staff will present a draft final report and recommendations at a future Central Valley Water Board hearing.

BACKGROUND: The Sacramento-San Joaquin Delta Estuary is impaired due to elevated levels of mercury in fish tissue. In June 2006, staff submitted a total maximum daily load (TMDL) technical report and a Basin Plan amendment report to scientific peer reviewers. These reports were made available to the public. The TMDL report discusses mercury and methylmercury from municipal and industrial wastewater, urban runoff, wetlands, open channels, agricultural return flows, and tributary watersheds. The TMDL report also describes beneficial uses, alternatives for fish tissue numeric targets, the linkage between aqueous methylmercury and fish tissue methylmercury, and methylmercury load reductions required to meet the targets.

The June 2006 Basin Plan amendment draft report proposes a regulatory program to control mercury in the Delta. The staff report discusses alternatives for new fish tissue objectives and a strategy to reduce methylmercury and total mercury loading into the Delta. The proposed amendments also include adding the commercial and sport fishing beneficial use to the Delta and a monitoring program to assess compliance with water quality objectives.

Staff has held two public workshops and numerous stakeholder meetings to receive comments on the June 2006 TMDL and Basin Plan amendment staff reports. Staff has revised portions of the proposed Basin Plan amendment language based on written and verbal comments from the scientific peer reviewers and stakeholders. The most recent version of the proposed Basin Plan amendment is included with the Central Valley Water Board's March 2007 agenda package. This updated version of the proposed Basin Plan amendment and the 2006 Delta mercury reports are also available on the Board's internet site at http://www.waterboards.ca.gov/centralvalley/programs/tmdl/deltahg.html.

The proposed methylmercury control program consists of three components: control activities that enhance production of methylmercury, reduce the amount of total mercury available to be converted to methylmercury, and reduce methylmercury exposure to humans consuming contaminated fish. The proposed amendment includes methylmercury allocations for inputs from NPDES facilities, municipal stormwater, agricultural lands, wetlands, and open channels in the Delta and Yolo Bypass. The amendment also includes total mercury limits and actions to reduce the loads of total mercury entering the Delta.

The proposed implementation strategy is divided into Phase 1 (2008-2015) and Phase 2 (2016-2030). Phase 1 is primarily a study period for dischargers to better characterize their methylmercury discharges and develop methylmercury control measures. Phase 1 has several interim reporting requirements to document the progress of required methylmercury characterization and control studies. Based on the findings and results of the studies at the end of Phase 1, the Central Valley Water Board will review and revise methylmercury allocations

as appropriate and establish time schedules for implementing management practices to control mercury discharges. Phase 1 does not require dischargers to implement methylmercury controls. During the study period, dischargers are required to maintain interim requirements to minimize increases in methylmercury. Phase 2 would require implementation of feasible and appropriate methylmercury controls determined by the Phase 1 studies.

ISSUES: Major issues that staff will discuss at the workshop include:

- The proposed fish tissue objective included in the draft Basin Plan amendment was set at levels designed to protect wildlife species that consume Delta fish and to provide reasonable protection for people who consume Delta fish. Staff has received input from different stakeholders suggesting that the proposed objectives are either too high or too low.

- Wetlands are important for a healthy Delta ecosystem. However, based on recent studies, some wetlands are significant sources of methylmercury. Wetland acreage is projected to increase dramatically in the future with the construction of wetland restoration projects, thus potentially exacerbating the methylmercury impairment in the Delta if the methylation potential of new wetlands is not addressed during their design and construction. There are different perspectives on what types of requirements should be placed on existing and new wetlands. The proposed approach outlined in the draft Basin Plan requires wetland managers to conduct studies and evaluate methylmercury management practices.

- There are multiple methylmercury sources that, when summed, result in the Delta mercury impairment, but individually are not substantial. Staff recommends that dischargers of methylmercury need to evaluate methylmercury production and methylmercury control options. Dischargers of similar sources are encouraged to work together to conduct coordinated studies to maximize effectiveness. Staff has heard comments that upstream methylmercury sources not addressed by this Basin Plan amendment should be included in the requirement for mercury studies.

- Some stakeholders support the concept of a mercury offset program and want one to be developed as part of this TMDL. Staff has proposed criteria for offset pilot projects that dischargers may conduct while evaluating the control of mercury and methylmercury at their facility.

Mgmt. Review: _____

Legal Review: _____

15/16 March 2007

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